

*Arizona Supreme Court
Judicial Ethics Advisory Committee*

ADVISORY OPINION 90-07
(March 9, 1990)

**Publication of Subscription Newsletter
Summarizing Appellate Court Opinions**

Issue

Is it proper for a judge to continue a subscription newsletter summarizing appellate court opinions if it is handled through a blind subscriptions list?

Answer: Yes.

Facts

Before assuming the superior court bench, a newly appointed judge wrote and published a bi-weekly newsletter summarizing slip opinions from Arizona appellate courts. He sold the service to subscribers for \$150 a year if copied for members of the firm, \$100 if not copied. The preparation was done and continues to be done personally during evenings and on weekends at home on a personal, privately-owned word processor.

Discussion

It is the opinion of the Advisory Committee that the writing and publication of the newsletter may continue so long as (a) it does not interfere with the performance of judicial duties, Canon 3, Code of Judicial Conduct; (b) private resources are employed in rendering the service, and (c) any subscriptions are handled through a blind subscription list, i.e., in a fashion where a third party handles all the subscriptions in a manner where the identity of subscribers remains unknown to the judge. Thus, the judge is shielded from business transactions with lawyers likely to come before the court. Moreover, the judge's name should not appear on the newsletter or in connection with its publication in any fashion. Use of the judge's name with or without the use of the judicial title could raise problems concerning the use of the judicial position to promote the judge's private interests. This must be avoided.

We believe these safeguards would meet the admonitions in Canon 5C(1) that a judge "should refrain from financial and business dealings that tend to reflect adversely on his impartiality, interfere with the proper performance of his judicial duties, exploit his judicial position, or involve him in frequent transactions with lawyers or persons likely to come before the court on which he serves."

The committee recognizes the activity as a valuable service to the legal community and one assisting the judge to maintain professional competence in the law as adjured by Canon 3A(1). Canon 4A specifically authorizes a judge to write and participate in other activities concerning the law. Canon 5C(2) permits a judge to participate in appropriate remunerative activity.

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Accordingly, so long as the caveats set forth are observed, we are of the opinion that writing and publication may continue.

Applicable Code Sections

Arizona Code of Judicial Conduct, Canons 3A(1), 4A and 5C(1) and (2) (1985).

Notice

This opinion elaborates on the issue discussed in Opinion 89-03 (November 3, 1989).